THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

W.P.No.4406 of 2007

Dated 12-04-2007

Between:

India Fellowship Inc.,

…Petitioner

And

The Commissioner & Inspector General of Registration and Stamps, A.P., Hyderabad and others

…Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

W.P.No.4406 of 2007

ORDER:

This writ petition is filed challenging the show cause notice dated 08-12-2006, issued by the 1st respondent. The relevant facts, stated in brief, are as under:

The 2nd respondent started a Society in the name of 'India Poultry and Farming Inc'., in the year 1968, by getting it registered in U.S.A. Thereafter he changed its name to 'India Fellowship Inc'., the petitioner herein, and got it registered in 1971, in India, with himself, respondent No.3, and certain others, as members.

Petitioner states that on account of his failing health the 2nd respondent handed over the society to Mr. Ebenezer Samuel, and others, and on the basis of such adjustment, a new Committee was constituted. The Committee is said to have met on 20th April, 2004, and had amended the bye-laws, and the same were registered by the 1st respondent. The property is said to be under the administration of the newly constituted committee.

The 3rd respondent is the son of the 2nd respondent. At his instance, the entries in revenue records, in respect of some properties, were changed. In an appeal preferred by the petitioner, the entries were restored.

The 2nd respondent filed a complaint before the 1st respondent, stating that the meetings held on 26-02-2004 and 25-03-2004, and the resolutions passed therein are not valid and binding. It is stated that there did not exist proper quorum, and that the minutes were entered by persons, who were not authorized.

On the basis of this complaint, the 1st respondent issued the impugned show cause notice.

Sri B. Vijaysen Reddy, learned counsel appearing for the petitioner submits that, any dispute, in relation to the petitioner- society, has to be resolved by invoking the provisions of the A.P. Societies Registration Act, 2001 (for short '*the Act*'), by filing an O.P., in appropriate forum, and the 1st respondent has absolutely no jurisdiction, either to entertain the complaint, or to issue the impugned notice.

Learned Government Pleader appearing for the 1st respondent, and Sri P.R. Prasad, learned counsel for the respondents 2 and 3, on the other hand, submit that the petitioner put forward its defence in the reply, and the writ petition is not maintainable, to assail the impugned show cause notice.

It is true, that it is only in exceptional cases, that writ petitions can be entertained against show cause notices. The reason is that, whatever grounds the parties intend to urge, are to be canvassed before the concerned authorities; and this Court cannot embark upon the respective rights of the petitioner at the stage of notice. However, where a show cause notice is issued by an authority, not vested with the power and jurisdiction, writ petition can be entertained, to avoid an otherwise untenable litigation.

The Act is a self-contained Code. Section 23 thereof, provides that, wherever any disputes exist, between the society and members, and member *inter se*, the aggrieved party must approach the District Court, within whose territorial jurisdiction the society is functioning. Unlike the A.P. Co-operative Societies Act, this Act does not provide for any interference by the Executive Authorities, or the Government. May be that the 1st respondent is conferred with the power to register

the bye-laws and the amendment thereto. He is not conferred with any power, to decide upon the correctness or otherwise of the resolutions, passed by a society. If any party feels aggrieved by such resolutions, or acts and omissions, on the part of the society, he has to workout his remedies under Section 23 of the Act. Therefore, the present impugned show cause notice is totally without jurisdiction.

The writ petition is accordingly allowed, making it clear that, it shall be open to the respondents to workout their remedies in accordance with law.

There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.12-04-2007

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